

D.T.E. 99-116

Petition of The Berkshire Gas Company for authority to carry on its business in the Town of Sunderland, Massachusetts, pursuant to the provisions of G.L. c. 164, § 30.

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FOR: THE BERKSHIRE GAS COMPANY

Petitioner

I. INTRODUCTION

On December 30, 1999, The Berkshire Gas Company ("Berkshire" or "Company") petitioned the Department of Telecommunications and Energy ("Department") for authority to carry on its business in the Town of Sunderland ("Sunderland"), Massachusetts, pursuant to the provisions of G.L. c. 164, § 30. The petition was docketed as D.T.E. 99-116.

Pursuant to notice duly issued, the Department conducted hearings on May 9, 2000 at its offices at One South Station, Boston, Massachusetts. The Company sponsored one witness in support of its filing: Karen L. Zink, Vice President of Marketing and Resource Planning. The evidentiary record includes 34 exhibits and three record requests.

II. THE COMPANY'S PETITION

Berkshire requests that the Department authorize it to carry on its business in Sunderland, Massachusetts. Berkshire states that it intends initially to extend its main for approximately 1,800 feet along Route 116 from the Amherst/Sunderland boundary line (Exh. KLZ-1, at 2). The Company states that the extension will operate at pressures between 20 and 60 psi⁽¹⁾

, depending on the seasonal load demand (Exh. DTE 1-15). Berkshire states that construction of the initial extension will take approximately three weeks and would begin as soon as practical after all regulatory approvals have been obtained (Exhs. DTE 1-14; DTE 1-21). Berkshire indicates that, depending on the outcome of a future financial feasibility analysis, the Company may propose, in a future filing, to extend the 1,800 foot main another two miles to service the heating load of an existing apartment complex (Exhs. DTE 1-1; DTE 1-14; Tr. at 23-25).⁽²⁾

Berkshire states that, currently, no gas company provides natural gas service to Sunderland.⁽³⁾ Berkshire states that its extension will enable the Company to provide service to a load center in the southern portion of Sunderland (Exh. KLZ-1, at 2). Berkshire states that the planned extension will serve no fewer than three customers under the Company's G-41 rate (Exh. KLZ-1, at 5; Tr. at 34). Under this assumption, Berkshire states that the return on this incremental investment will exceed the Company's overall rate of return and is expected to generate a positive net margin (Exh. KLZ-1, at 5, Att. E). The Company further indicates that, along with the Company's requirement for a positive net margin, it would only build the proposed extension if it obtains contractual commitments from customers by a date certain after it receives Department approval (Exh. DTE 1-31; Tr. at 30).

The Company contends that the addition of new customers in Sunderland pursuant to the Company's planned extension will likely benefit Berkshire's existing customers by spreading the Company's fixed costs over an expanded customer base and providing the Company with more opportunities to offset increased operating expenses (Exhs. KLZ-1, at 5; DTE 1-19). Berkshire also notes that the expansion of gas service into Sunderland is consistent with numerous expressions of customer interest and also the interests of the Sunderland Board of Selectmen (Exhs. KLZ-1, at 3-4, Att. D; DTE 1-7).

III. STANDARD OF REVIEW

The Department's review of these petitions is undertaken pursuant to G. L. c. 164, which states:

The Department may, after notice and a public hearing, authorize a gas or electric company to carry on its business in any town in the commonwealth other than the town named in its agreement of association or charter, subject to sections eighty-six to eighty-eight, inclusive, and it may purchase, hold and convey real and personal estate in such other town necessary for carrying on its business therein.

In assessing the reasonableness of this request, the Department must review the record compiled during its investigation of the petition. Bay State Gas Company, D.P.U. 87-62 (1987); Bay State Gas Company, D.P.U. 86-138/86-179, at 6 (1987); Dover Water Company, D.P.U. 86-26/86-79, at 2 (1986).

IV. ANALYSIS AND FINDINGS

Upon review of the record, the Department notes that Sunderland currently does not have a local gas distribution company providing service to its residents. The record demonstrates that the Company has received support for its proposal from the Sunderland Board of Selectmen and other potential customers in the town. The Department finds that, based on the record in this case, the Company will be able to provide service to customers in Sunderland without adversely affecting service to its existing customers.

Accordingly, the Department approves the petition of The Berkshire Gas Company for authority to carry on its business in the Town of Sunderland. The Company must complete this work by December 30, 2000. In the event that the Company wishes to increase pressure beyond 60 psi, Berkshire must seek Department approval.

IV. ORDER

Accordingly, after due notice, hearing and consideration, it is

ORDERED: That the petition of The Berkshire Gas Company for authority to carry on its business in the Town of Sunderland, Massachusetts is hereby approved; and it is

FURTHER ORDERED: That The Berkshire Gas Company comply with any and all other directives contained in this Order.

By Order of the Department

James Connelly, Chairman

W. Robert Keating, Commissioner

Paul B. Vasington, Commissioner

Eugene J. Sullivan, Jr., Commissioner

Deirdre K. Manning, Commissioner

Appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part.

Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. (Sec. 5, Chapter 25, G.L. Ter. Ed., as most recently amended by Chapter 485 of the Acts of 1971).

1. The Company states that the pressure on the proposed main would not exceed 60 pounds per square inch ("psi"). The pressure on the Amherst feedline to which the proposed main will connect is 60 psi (Exhs. DTE 1-10; DTE 1-15).

2. Such an extension may require approval by the Energy Facilities Siting Board. See 980 C.M.R. § 2.03 (3).

3. ³ Berkshire Gas previously filed with the Department a petition for authority to carry on its business in Sunderland, which the Department approved subject to the condition

that the work be completed by May 31, 1970. The Berkshire Gas Company, D.P.U. 16190 (1969). Berkshire testified in this proceeding that this condition was not met and that, pursuant to the terms of the Department's order in D.P.U. 16190, such failure "automatically terminated" the authority granted in D.P.U. 16190 (Tr. at 35-36).